GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Gajani Thavudu S/o Late Appanna, Pathanaupada(V), Tekkali (M), Srikakulam District, against the Proceedings No.RC. 1497/2001, dated: 27.07.2007 of the Collector, Srikakulam District - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition dismissed – Orders Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 74 Dated:07.11.2015.
Read the following:

1. Proceedings of the District Collector, Srikakulam District No.RC. 1497/2001 C1, dated: 27.07.2007.
2. Appeal Petition filed by Sri Gajani Thavudu S/o Late Appanna, Pathanaupada(V), Tekkali (M), Srikakulam, dated 23.8.2007.
3. Government Memo No.5901/CV.2/2007, S.W(CV.2) Department , dt.13.09.2007.
4. Orders of the Hon'ble High Court, A.P., Hyderabad, in W.P. No. 20179/2007, dated 24.09.2007.
5. From the District Collector, Srikakulam letter No. Rc.No. 1497/2001/C1, dated:01.12.2007.
6. Govt. Memo No.5901/CV.2/2007, S.W(CV.2) Department, dt. 19.03.2008 & 08.05.2009.
7. Govt. Letter No.5901/CV.2/2007, S.W(CV.2) Department, dt. 08.03.2010 & 10.06.2010.
8. Govt. Memo No.5901/CV.2/2007, S.W(CV.2) Department, dt. 19.02.2014, 05.11.2014, 24.11.2014, 23.02.2015.
9. Govt. Memo No.5901/CV.2/2007, S.W(CV.2) Department, dt. 18.04.2015.

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ORDER:

In the reference 1st read above the District Collector, Srikakulam has issued orders canceling Bentho Oriaya Caste Certificate obtained from the then Tahsildar, Tekkali in 1978 by Sri Gajani Thavudu S/o Late Appanna, Pathanaupada(V), Tekkali (M), Srikakulam District.

2. In the reference 2nd read above, Sri Gajani Thavudu S/o Late Appanna, has filed Appeal Petition before the Government against the orders of the District Collector, Srikakulam. After examining the said Appeal Petition, Government have admitted the Appeal Petition and stay rejected by the Government orders and called for the parawise remarks and connected records from the District Collector, Srikakulam in the reference 3rd read above.

3. In the reference 4th read above, Sri Gajani Thavudu S/o Late Appanna, has filed Writ Petition No. 20179/2007, dated 24.09.2007 against the Memo.No.5901/CV.2/2007, dated 13.09.2007, wherein the stay on the Proceedings of the District Collector, Srikakulam, prayed by him has been rejected by the Government. The Hon'ble High Court of AP while disposing off the said WP on 24.09.2007 has passed stay orders on the proceedings of the District Collector pending finalization of the Appeal and directed the 1st respondent (Principal Secretary) to dispose off the appeal at the earliest convenient time, at any rate on or before 30.04.2008. But due to several administrative difficulties the matter could not be disposed before the said date however, after giving notices from time to time to the appellant through his counsel the matter has been examined by the Appellate Authority.

(P.T.O.)

4. In the reference 5th read above, the District Collector, Srikakulam has furnished the Parawise remarks and connected records of Sri Gajani Thavudu S/o Late Appanna, Pathanaupada(V), Tekkali (M), Srikakulam District.

5. The said Appeal Petition has been posted for hearing on 27.03.2008,11.05.2009, 19.03.2010, 25.06.2010, 24.02.2014, 13.11.2014, 13.12.2014, 28.02.2015 and finally on 18.04.2015 and the same has been informed to the Appellant and the Counsel for the appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 6th, 7th 8th and 9th read above.

6. After examination of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by District Collector, Srikakulam, and proceedings of the District Collector, Srikakulam, dated 27.07.2007, it is observed that the Appellant failed to produce any reliable material to the effect that he belongs to “Bentho Oriya” Community, the Certificates filed by him are(2) Caste Certificates issued by Thasildhar/MRO Tekkali in the year 1978 & 1986 and a Transfer Certificate issued by the Principal, TTI, Ommaravalli, Srikakulam District which was to the effect that the individual has studied / underwent training in Teacher Training Course during academic year 1985/1986, as much as the said certificate was issued, based on the declaration given by the individual at the time of his admission into the said course, it cant be given any credeure.

7. Further it is observed that the findings of DLSC is that the caste certificate issued to the Appellant by the Thasildar Tekkali in the year 1978 and the MR.O Tekkali in the year 1986 are obtained by the appellant by misleading the Officers. The Officers obviously did not conduct proper enquiry before issuing the said certificate. Further it is observed that as per rule 21 of AP SC, ST&BC Regulation of Issue of Community Certificates Act 16 of 1993 and G.O.Ms.No. 58, S.W(J) Department, dated 12.05.1997, the Government is of opinion that the caste certificates issued by the Competent Authority under the above Act shall be presumed to be valid till the contrary is proved. The object of framing of rules is for better implementation of the above statute and the rule can never override the section of law as the purpose of rules is to only sub serve the statute. Anyway, it is obvious that the collector under section 5 of A.P. Act 16 of 1993 has undoubtelly has power to cancel a caste certificate where it is found to have been obtained fraudly. Hence the rule 21 cannot have power to override section 5 of the act and it is intended to cover the certificates issued by competent authority under A.P. Act 16 of 1993, even though the rules are framed in 1997. Even though several opportunities were given to the appellant to produce any evidence to show that he or his Grandparents belong to ST “Benthu Oriya” he failed to produce the same. If the above order of cancellation passed against the appellant is not confirmed, a genuine ST who would be entitled to the said benefit under the act would be deprived.

8. Further it is also observed that the above appeal is devoid of any merits. The Govt. of A.P. earlier issued GO stating that several false claims are being made by different persons, claiming that they belong to Benthu Oriya ST Community but to prevent fraud the Govt., directed the Collectors to take the Electoral Rolls of the year 1951 as the basis. But the individual did not produce any such record or any other relevant record. The strong and consistent view of the Collector is that the appellant belongs to Vaddi BC-A, but not “Benthu Oriya” ST Community hence no infirmity is found in the order of the District Collector, Srikakulam.

9. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993),decided that the appeal petition filed by Sri Gajani Thavudu S/o Late

(Contd…)

Appanna does not deserve any interference. Hence, Proceedings of the District Collector, Srikakulam issued vide Rc. No. 1497/2001, C1, dated: 27.07.2007,is hereby upheld and the Appeal Petition filed by Sri Gajani Thavudu S/o Late Appanna is hereby dismissed and the Certificate issued by the M.R.O., Tekkali deemed to be cancelled.

10. Consequently, the District Collector, Srikakulam shall take necessary action in the matter.

11. The records (containing Rc. No. 1497/2001, C1, dated: 27.07.2007, pages 01 to 214CF & NF pages 1-28) received from District Collector, Srikakulam , through 5th read above, are returned herewith in original to District Collector, Srikakulam and he is requested to acknowledge the receipt of the same, immediately.

((**BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH**)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To
The District Collector, Srikakulam (w.e) (By RPAD)
(with original records).

Sri Gajani Thavudu S/o Late Appanna,
Pathanaupada(V), Tekkali (M), Srikakulam District.

Sri B.Sudhakar Reddy, Advocate
MIG II, Block-9, Flat -9,
Bagh Lingampally, Hyderabad.

Copy to:
The Divisional Railway Manager, Personal Branch,
Waltair, Visakhapatnam District.
The Director, TCR& TI, AP, Hyderabad
P.S. to Hon'ble Minister(SWE&TWE)
P.S. to Principal Secretary(TW)
SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER